

Draft Regulations laid before the House of Commons under section 221 of the Finance Act 2012, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2013 No.

**CAPITAL GAINS TAX
CORPORATION TAX
INCOME TAX
STAMP DUTY
STAMP DUTY RESERVE TAX**

The Building Societies (Core Capital
Deferred Shares) Regulations 2013

*Made - - - - - ***
Coming into force in accordance with regulation 1(1)*

The Treasury make the following Regulations in exercise of the powers conferred by section 221 of the Finance Act 2012⁽¹⁾.

A draft of this instrument was laid before and approved by a resolution of the House of Commons in accordance with section 221(6) of the Finance Act 2012.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Building Societies (Core Capital Deferred Shares) Regulations 2013 and come into force on the day after the day on which they are made.

(2) These Regulations have effect in relation to shares issued, and securities converted into shares, on or after that date.

Core capital deferred shares

2.—(1) In these Regulations, “core capital deferred shares” are deferred shares that form part of the core tier one capital of a building society.

(2) For the purposes of this regulation—

- (a) “building society” and “deferred shares” have the same meanings as in the Building Societies Act 1986(2), and
- (b) the reference to “core tier one capital” is to be read in accordance with the Handbook of Rules and Guidance made by the Financial Services Authority (as that Handbook has effect from time to time)(3).

Disapplication of provisions

- 3.—(1) The following provisions do not apply in relation to core capital deferred shares—
- (a) section 109 of the Building Societies Act 1986 (exemption from stamp duty),
 - (b) section 372 of ITTOIA 2005 (building society dividends)(4),
 - (c) section 889 of ITA 2007 (payments in respect of building society securities)(5),
 - (d) the exclusion of a share in a building society in the definition of “share” in section 476(1) of CTA 2009 (other definitions)(6),
 - (e) section 498 of CTA 2009 (building society dividends and interest),
 - (f) section 1054 of CTA 2010 (building society payments) (and accordingly any interest, dividend or other distribution payable in respect of core capital deferred shares is a distribution of the society for corporation tax purposes).
- (2) Core capital deferred shares are not—
- (a) loan capital under section 78(7) of FA 1986(7),
 - (b) qualifying corporate bonds under section 117 of TCGA 1992(8), or
 - (c) restricted preference shares under section 160 of CTA 2010.

Date

Name
Name
Two of the Lords Commissioners of Her
Majesty’s Treasury

(2) 1986 c. 53; section 109 was amended by paragraph 8 of Schedule 12 to the Finance Act 1988 (c. 39); see also section 119 for the definitions of “building society” and “deferred shares”.

(3) The Handbook of Rules and Guidance made by the Financial Services Authority can be found at <http://www.fsahandbook.info/FSA/html/handbook/>, details of how to access a printed copy can be found by contacting the Agency for the Legal Deposit Libraries at 161 Causeways, Edinburgh EH9 1PH (telephone number +44(0) 131 6234680) and a copy of the Handbook can be purchased from Sweet & Maxwell at FREEPOST, PO Box 2000, Andover, SP10 9AH.

(4) 2005 c. 5; section 372 was amended by paragraph 514 of Schedule 1 to the Income Tax Act 2007 (c. 3).

(5) 2007 c. 3; section 889 was amended by paragraph 27 of Schedule 1 to the Finance Act 2008 (c. 9).

(6) 2009 c. 4; see also section 1121 of the Corporation Tax Act 2010 (c. 4).

(7) 1986 c. 41; section 78(7) was amended by section 154(2) of the Finance Act 2008 (c. 9), paragraph 323 of Schedule 1 to the Corporation Tax Act 2009 (c. 4) and paragraph 195 of Schedule 8 to the Taxation (International and Other Provisions) Act 2010 (c. 8).

(8) 1992 c. 12; section 117 was amended by section 84(1) of the Finance Act 1993 (c. 34), section 50 of the Finance Act 1995 (c. 4), paragraph 61 of Schedule 14 and Part 5(3) of Schedule 41 to the Finance Act 1996 (c. 8), Part 3(10) of Schedule 40 to the Finance Act 2002 (c. 23), paragraph 433 of Schedule 1 to the Income Tax (Trading and Other Income) Act 2005, section 53(10) of the Finance Act 2007 (c. 11), paragraph 231 of Schedule 1 to the Corporation Tax Act 2010, paragraph 200 of Schedule 8 to the Taxation (International and Other Provisions) Act 2010, article 63 of S.I. 2001/3629 and regulation 2 of S.I. 2006/3291.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the taxation of a certain type of regulatory capital instrument that may be issued by building societies. These instruments are known as “core capital deferred shares” and are defined in regulation 2 as deferred shares that form part of the core tier one capital of a building society. Regulation 3 disapplies tax and stamp duty provisions relating to building society shares in relation to core capital deferred shares and provides that such shares are not loan capital for stamp duty purposes under section 78(7) of the Finance Act 1986, qualifying corporate bonds under the Taxation of Chargeable Gains Act 1992 or restricted preference shares under section 160 of the Corporation Tax Act 2010.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.